



# Department of Justice

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**JUSTICE DEPARTMENT WILL NOT CHALLENGE THE FORMATION OF  
A NETWORK OF CINCINNATI ORTHOPEDIC SURGEONS**

WASHINGTON, D.C. -- A group of Cincinnati orthopedic surgeons will be allowed to form a network to contract with health benefit plans to provide plan members with orthopedic services, the Department of Justice announced today.

Cincinnati Regional Orthopedic and Sports Medicine Associates will be a non-exclusive physician network joint venture that negotiates and contracts directly with managed care plans and other third party payers.

Assistant Attorney General Anne K. Bingaman of the Antitrust Division said that the Department will not challenge the network's plans because they do not raise substantial antitrust concerns. The network will involve significant risk sharing among member physicians, and will include utilization review and quality assurance monitoring. The network also has established safeguards on the flow of information among its physician members to eliminate enforcement concerns about the sharing of information.

Cincinnati Regional Orthopedic and Sports Medicine Association's network will be comprised of 56 of the 158 orthopedic surgeons in the greater Cincinnati metropolitan area,

which includes 28 counties in Ohio, Kentucky and Indiana. This 35 percent market share is slightly more than the antitrust safety zone of 30 percent for non-exclusive networks established in Statement 8 of the 1996 Statements of Antitrust Enforcement Policy in Health Care, issued recently by the Department of Justice and the Federal Trade Commission. However, as the Department has emphasized, proposals that do not meet safety zone requirements are not necessarily unlawful and the proposed activities here do not raise substantial antitrust concerns when fully analyzed under the analytical principles set forth in the Statement 8.

The network's contracts with health benefit plans will initially provide for physician services compensation in the form of capitated payments. At a later date, the network may offer services under a discounted fee-for-service schedule with a "risk pool" withhold of at least 20 percent of the fees due each physician. The withhold would be distributed to participating physicians only if the panel of doctors as a group meets pre-established efficiency and quality parameters.

The proposed network has the potential to benefit managed care plans and their enrollees through efficiencies that may result from the payers' ability to contract with a group of providers through a single representative, and from the utilization review and quality assurance monitoring measures that will be performed.

Under the Department's business review procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws. A file containing the business review request and the Department's request may be examined in the Legal Procedure Unit of the Antitrust Division, Room 215 North, Liberty Place, Department of Justice, Washington, D.C. 20530. After a 30 day waiting period, the documents supporting the business review will be added to the file.

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